



HOUSE BILL No. 4663

March 23, 1995, Introduced by Reps. Gire, Anthony, DeHart, Willard, Kaza, Martinez and Tesanovich and referred to the Committee on House Oversight and Ethics.

A bill to regulate political activity; to regulate certain candidates and state officials; to require certain financial statements and reports; to regulate acceptance of certain payments and other items; to prescribe the powers and duties of certain state departments and state and local officials and employees; and to prescribe penalties and provide remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the
2 "Michigan financial disclosure act".

3 Sec. 2. As used in this act:

4 (a) "Candidate" means that term as defined in section 3 of
5 the Michigan campaign finance act, Act No. 388 of the Public Acts
6 of 1976, being section 169.203 of the Michigan Compiled Laws.

7 (b) "Candidate for state office" means a candidate for any
8 of the following:

1 (i) The office of governor.

2 (ii) The office of lieutenant governor.

3 (iii) The office of attorney general.

4 (iv) The office of secretary of state.

5 (v) The office of state senator.

6 (vi) The office of state representative.

7 (vii) The office of head of a principal department as pro-

8 vided in section 3 of article V of the state constitution of

9 1963, if the office is filled by election.

10 (viii) The office of a member of a board or commission head-

11 ing a principal department as provided in section 3 of article V

12 of the state constitution of 1963, if the office is filled by

13 election.

14 (ix) The office of judge of a court of record.

15 (x) The office of regent of the university of Michigan,

16 member of the board of trustees of Michigan state university, or

17 member of the board of governors of Wayne state university.

18 (c) "Earned income" means salaries, tips, and other employee

19 compensation, and net earnings from self-employment for the tax-

20 able year.

21 (d) "Immediate family" means a child residing in an

22 individual's household, a spouse of an individual, or a person

23 claimed by that individual or that individual's spouse as a

24 dependent for federal income tax purposes.

25 (e) "Income" means money or any thing of value received, or

26 to be received as a claim on future services, whether in the form

27 of a fee, salary, expense, allowance, forbearance, forgiveness,

1 interest, dividend, royalty, rent, capital gain, or any other
2 form of recompense that is considered income under the internal
3 revenue code.

4 (f) "Secretary of state" means the secretary of state or the
5 designee of the secretary of state.

6 (g) "State official" means all of the following:

7 (i) The governor.

8 (ii) The lieutenant governor.

9 (iii) The attorney general.

10 (iv) The secretary of state.

11 (v) A state senator.

12 (vi) A state representative.

13 (vii) The head of each principal department as provided in
14 section 3 of article V of the state constitution of 1963.

15 (viii) The members of a board or commission heading a prin-
16 cipal department as provided in section 3 of article V of the
17 state constitution of 1963.

18 (ix) The person appointed by a board or commission to be the
19 principal executive officer of a principal department as provided
20 in section 3 of article V of the state constitution of 1963.

21 (x) A judge of a court of record.

22 (xi) A regent of the university of Michigan, a member of the
23 board of trustees of Michigan state university, or a member of
24 the board of governors of Wayne state university.

25 Sec. 3. (1) If an individual was a state official at any
26 time during the preceding calendar year, that individual shall
27 file with the secretary of state by May 1 of the present year a

1 report that meets the requirements of section 4 unless that
2 individual is no longer a state official.

3 (2) If an individual is a candidate for state office, that
4 individual shall file with the secretary of state before the
5 expiration of 30 days after the filing deadline for candidacy
6 established in the Michigan election law, Act No. 116 of the
7 Public Acts of 1954, being sections 168.1 to 168.992 of the
8 Michigan Compiled Laws, a report that meets the requirements of
9 section 4. This subsection does not apply to an individual who
10 has filed a report in the present calendar year pursuant to sub-
11 section (1).

12 Sec. 4. (1) Subject to section 5 and except as provided in
13 section 6, the report required by section 3 shall include a com-
14 plete statement of all of the following:

15 (a) The source, type, and amount or value of earned income
16 received during the preceding calendar year by the individual
17 filing the report if the total earned income from that source
18 equals \$1,000.00 or more during that calendar year. The source
19 and type of earned income received during the preceding calendar
20 year by the spouse of the individual filing the report if the
21 total earned income from that source equals \$1,000.00 or more
22 during that calendar year.

23 (b) The source, type, and amount or value of all other
24 income not reported under subdivision (a) that is received during
25 the preceding calendar year by the individual filing the report
26 or a member of the immediate family of that individual if the

1 total income from that source equals \$1,000.00 or more during
2 that calendar year.

3 (c) The identity and value of each asset held during the
4 preceding calendar year by the individual filing the report or a
5 member of the immediate family of that individual, including real
6 or personal property or cash, if the asset had a fair market
7 value of \$1,000.00 or more at any time the asset was held during
8 the preceding calendar year. However, if the individual filing
9 the report owns or has an interest in all or a portion of a farm
10 or business, the identity and value of each asset held during the
11 preceding year that is used in the operation of the farm or busi-
12 ness does not have to be reported under this subdivision if the
13 report includes a complete statement of the identity and value of
14 the farm or business.

15 (d) The identity and value of each liability owed during the
16 preceding calendar year by the individual filing the report or a
17 member of the immediate family of that individual if the amount
18 of the liability was \$10,000.00 or more at any time during the
19 preceding calendar year, excluding a loan secured by the personal
20 residence of the individual filing the report or by a personal
21 motor vehicle, household furniture, or appliance, if the loan
22 does not exceed the purchase price of the item that secures the
23 liability.

24 (e) A brief description and value of a purchase, sale, or
25 exchange of real property, other than real property used solely
26 as a personal residence by the individual filing the report and
27 his or her immediate family, or of stocks, bonds, commodities,

1 futures, or other forms of securities during the preceding
2 calendar year by the individual filing the report or a member of
3 the immediate family of that individual that is equal to an
4 amount of \$1,000.00 or more. This subdivision does not require a
5 description of each purchase, sale, or exchange of stocks, bonds,
6 commodities, or other forms of securities if those items are part
7 of a mutual fund and if the identity and value of the mutual fund
8 is otherwise reported under this act.

9 (f) Except as otherwise provided by this subdivision, the
10 identity of all positions held by the individual filing the
11 report during the preceding calendar year as an officer, direc-
12 tor, trustee, partner, proprietor, representative, employee, or
13 consultant of a corporation, partnership, or other business
14 enterprise; of a nonprofit organization; of a labor organization;
15 or of an educational or other institution. An individual filing
16 the report who is required to have a license to practice or
17 engage in a particular occupation or profession is not required
18 to identify a position held as a consultant of a corporation
19 unless the corporation is a publicly held corporation that has
20 shares that are listed or traded over the counter or on an orga-
21 nized exchange or has gross revenues over \$4,000,000.00. This
22 subdivision does not require the reporting of a position held in
23 a religious, social, fraternal, or political entity, or of a
24 position solely of an honorary nature.

25 (g) A description, including the dates, parties, and terms,
26 of an agreement or arrangement by or with the individual filing
27 the report with respect to future employment, a leave of absence

1 during that individual's term of office, continuation of payments
2 by a former employer, or continuation of participation in an
3 employee benefit plan maintained by a former employer.

4 (2) Instead of the report required under subsection (1), an
5 individual required to file a report under section 3 may file a
6 copy of his or her federal form 1040 and related schedules filed
7 with the internal revenue service for the immediately preceding
8 calendar year.

9 Sec. 5. (1) An amount or value reported under
10 section 4(1)(a), (b), (c), or (e) shall be reported by category
11 as follows:

- 12 (a) \$1,000.00 or more but less than \$2,500.00.
13 (b) \$2,500.00 or more but less than \$5,000.00.
14 (c) \$5,000.00 or more but less than \$15,000.00.
15 (d) \$15,000.00 or more but less than \$50,000.00.
16 (e) \$50,000.00 or more but less than \$100,000.00.
17 (f) \$100,000.00 or more but less than \$250,000.00.
18 (g) \$250,000.00 or more but less than \$500,000.00.
19 (h) \$500,000.00 or more but less than \$1,000,000.00.
20 (i) \$1,000,000.00 or more.

21 (2) An amount or value reported under section 4(1)(d) shall
22 be reported by category as follows:

- 23 (a) \$10,000.00 or more but less than \$15,000.00.
24 (b) \$15,000.00 or more but less than \$50,000.00.
25 (c) \$50,000.00 or more but less than \$100,000.00.
26 (d) \$100,000.00 or more but less than \$250,000.00.

1 (e) \$250,000.00 or more but less than \$500,000.00.

2 (f) \$500,000.00 or more but less than \$1,000,000.00.

3 (g) \$1,000,000.00 or more.

4 Sec. 6. A report under section 4(1) may omit any of the
5 following:

6 (a) Information required to be reported under the Michigan
7 campaign finance act, Act No. 388 of the Public Acts of 1976,
8 being sections 169.201 to 169.282 of the Michigan Compiled Laws.

9 (b) A liability owed to the individual filing the report or
10 a relative within the third degree of consanguinity to that indi-
11 vidual if lent by the individual filing the report or a relative
12 within the third degree of consanguinity to that individual.

13 (c) An item otherwise required to be reported under
14 section 4(1)(c), (d), or (e) about which all of the following are
15 true:

16 (i) The item represents the sole financial interest and
17 responsibility of a member of the immediate family of the indi-
18 vidual filing the report of which that individual does not have
19 actual knowledge.

20 (ii) The item is not in any way, past or present, derived
21 from the income, assets, or activities of the individual filing
22 the report.

23 (iii) The individual filing the report does not derive, or
24 expect to derive, financial benefit from the item.

25 (d) An item that concerns a spouse who is living separate
26 and apart from the individual filing the report with the

1 intention of terminating the marriage or maintaining a legal
2 separation.

3 (e) An item that concerns income or obligations of the indi-
4 vidual filing the report arising from dissolution of his or her
5 marriage or a permanent legal separation from his or her spouse.

6 (f) Earned income of the individual filing the report who is
7 required to have a license as described in section 4(1)(f) from a
8 publicly held corporation that has shares that are listed or
9 traded over the counter or on an organized exchange, if that com-
10 pensation is paid to a business owned by the individual filing
11 the report or in which the individual filing the report has an
12 interest, and the report under section 4 includes a complete
13 statement of the identity and value of that business.

14 Sec. 7. The secretary of state shall do all of the
15 following:

16 (a) Prepare and make available appropriate forms and
17 instructions for the reports required by this act.

18 (b) Receive reports required by this act.

19 (c) Make available for public use a report filed under this
20 act within 30 days after the report is filed as provided in the
21 freedom of information act, Act No. 442 of the Public Acts of
22 1976, being sections 15.231 to 15.246 of the Michigan Compiled
23 Laws.

24 (d) Promulgate rules and issue declaratory rulings to imple-
25 ment this act pursuant to the administrative procedures act of
26 1969, Act No. 306 of the Public Acts of 1969, being sections
27 24.201 to 24.328 of the Michigan Compiled Laws.

1 (e) Conduct investigations as may be necessary to determine
2 if there is reason to believe a violation of this act occurred.
3 Investigations shall be pursuant to the procedures set forth in
4 Act No. 306 of the Public Acts of 1969.

5 Sec. 8. (1) A citizen of this state may file a complaint
6 with the secretary of state alleging a violation of this act.
7 The secretary of state, upon receipt of a complaint, shall inves-
8 tigate the allegations as provided in section 7.

9 (2) If the secretary of state, upon investigation, deter-
10 mines that there is reason to believe a violation of this act
11 occurred, the secretary of state shall forward the results of
12 that investigation to the attorney general for enforcement of
13 this act.

14 Sec. 9. (1) The attorney general shall enforce this act
15 against an individual who violates this act.

16 (2) A default in the payment of a civil fine ordered under
17 this act or an installment of the fine may be remedied by any
18 means authorized under the revised judicature act of 1961, Act
19 No. 236 of the Public Acts of 1961, being sections 600.101 to
20 600.9947 of the Michigan Compiled Laws.

21 Sec. 10. An individual who knowingly falsifies or knowingly
22 fails to file a report required by this act is liable for a civil
23 fine of \$5,000.00 or less.